

SEC. 2. There is hereby authorized to be appropriated to carry out the purposes of this Act not to exceed the sum of \$55,000.

SEC. 3. That the Secretary of the Interior, in his discretion, is hereby authorized to convey without consideration, but under such terms and conditions as he may deem advisable, to the New Salem School district of Dade County, Georgia, not to exceed ten acres of land located within lot numbered 114, eleventh district, fourth section, of Dade County, Georgia, now a part of the Chickamauga-Chattanooga National Military Park.

Approved, August 9, 1939.

Appropriation authorized.
Post, p. 1318.
 New Salem School district, Dade County, Ga., conveyance of land.

[CHAPTER 615]

AN ACT

To regulate interstate and foreign commerce in seeds; to require labeling and to prevent misrepresentation of seeds in interstate commerce; to require certain standards with respect to certain imported seeds; and for other purposes.

August 9, 1939
 [H. R. 5625]
 [Public, No. 354]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Seed Act".

Federal Seed Act.

TITLE I—DEFINITIONS

SEC. 101. (a) When used in this Act—

(1) The term "United States" means the several States, Alaska, District of Columbia, Hawaii, and Puerto Rico.

(2) The term "person" includes a partnership, corporation, company, society, or association.

(3) The term "interstate commerce" means—

(A) commerce between any State, Territory, possession, or the District of Columbia, and any other State, Territory, possession, or the District of Columbia; or

(B) commerce between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or

(C) commerce within the District of Columbia.

(4) For the purposes of this Act with respect to labeling for variety and origin (but not in anywise limiting the foregoing definition), seeds shall be considered to be in interstate commerce, or delivered for transportation in interstate commerce, if such seeds are part of, or delivered for transportation in, that current of commerce usual in the transportation and/or merchandising of seeds, whereby such seeds are sent from one State with the expectation that they will end their transit in another, including, in addition to cases within the above general description, all cases where seeds are transported or delivered for transportation to another State, or for processing or cleaning for seeding purposes within the State and shipment outside the State of the processed or cleaned seeds. Seeds normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act.

(5) The term "foreign commerce" means commerce between the United States, its possessions, or any Territory of the United States, and any foreign country.

(6) (a) The term "district court of the United States" means any court exercising the powers of a district court of the United States.

(b) The term "circuit court of appeals", in case the principal place of business or the place of residence of a person against whom a cease

Definitions.

"United States."

"Person."

"Interstate commerce."

Construction with respect to labeling for variety and origin.

"Foreign commerce."

"District court of the United States."

"Circuit court of appeals."

and desist order is issued is in the District of Columbia, includes the Court of Appeals of the District of Columbia.

(7) The term—

“Agricultural seeds.”

(A) “Agricultural seeds” shall include grass, forage, and field crop seeds, as follows:

- Agropyron cristatum (L.) Beauv.—Crested wheatgrass.
- Agropyron pauciflorum (Schwein.) Hitchc.—Slender wheatgrass.
- Agropyron smithii Rydb.—Bluestem.
- Agrostis alba L.—Redtop.
- Agrostis canina L.—Velvet bent.
- Agrostis palustris Huds.—Creeping bent.
- Agrostis spp.—Bentgrasses.
- Avena spp.—Oat.
- Beta vulgaris L.—Field beet, excluding sugar beet.
- Brassica napus L.—Winter rape.
- Bromus inermis Leyss.—Smooth brome.
- Chloris gayana Kunth.—Rhodes grass.
- Cynosurus cristatus L.—Crested dogtail.
- Dactylis glomerata L.—Orchard grass.
- Echinochloa crusgalli frumentacea (Roxb.) Wight.—Japanese millet.
- Fagopyrum vulgare Hill.—Common buckwheat.
- Festuca spp.—Fescue.
- Gossypium spp.—Cotton.
- Hordeum spp.—Barley.
- Lespedeza sericea (Thumb.) Miq.—Chinese lespedeza.
- Lespedeza stipulacea Maxim.—Korean lespedeza.
- Lespedeza striata (Thumb.) Hook and Arn.—Common and Kobe lespedeza.
- Linum usitatissimum L.—Flax.
- Lolium multiflorum Lam.—Italian ryegrass.
- Lolium perenne L.—Perennial ryegrass.
- Medicago arabica (L.) All.—Bur-clover.
- Medicago hispida Gaertn.—Bur-clover.
- Medicago lupulina L.—Black medick.
- Medicago sativa L.—Alfalfa.
- Melilotus alba Desr.—White sweetclover.
- Melilotus indica (L.) All.—Sourclover.
- Melilotus officinalis (L.) Lam.—Yellow sweetclover.
- Melinis minutiflora Beauv.—Molasses grass.
- Oryza sativa L.—Rice.
- Panicum fasciculatum Swartz.—Browntop millet.
- Panicum miliaceum L.—Proso.
- Paspalum dilatatum Poir.—Dallis grass.
- Paspalum notatum Fluegge.—Bahia grass.
- Pennisetum glaucum (L.) R. Br.—Pearl millet.
- Pennisetum purpureum Schumach.—Napier grass.
- Phleum pratense L.—Timothy.
- Phalaris arundinacea L.—Reed canary grass.
- Pisum sativum arvense L. (Poir.)—Field pea, Austrian winter pea.
- Poa annua L.—Annual bluegrass.
- Poa compressa L.—Canada bluegrass.
- Poa nemoralis L.—Wood bluegrass.
- Poa pratensis L.—Kentucky bluegrass.
- Poa trivialis L.—Rough bluegrass.
- Secale cereale L.—Rye.

Setaria italica (L.) Beauv.—Foxtail, German, Hungarian, or golden millet.

Soja max (L.) Piper.—Soybean.

Sorghum vulgare Pers.—Sorghum.

Sorghum vulgare sudanese (Piper) Hitchc.—Sudan grass.

Stizolobium utile (Wall.) Piper and Tracy.—Velvetbean.

Trifolium dubium Sibth.—Suckling clover.

Trifolium hybridum L.—Alsike clover.

Trifolium incarnatum L.—Crimson clover.

Trifolium pratense L.—Red clover.

Trifolium repens L.—White clover.

Triticum spp.—Wheat; spelt; emmer.

Vicia angustifolia (L.) Reich.—Narrowleaf vetch.

Vicia atropurpurea Desf.—Purple vetch.

Vicia dasycarpa Ten.—Woollypod vetch.

Vicia monantha Desf.—Monantha vetch.

Vicia pannonica Crantz.—Hungarian vetch.

Vicia sativa L.—Common vetch.

Vicia villosa Roth.—Hairy vetch.

Vigna sinensis (Torner) Savi.—Cowpea.

Zea mays L.—Field corn:

Provided, That the Secretary of Agriculture is authorized by rules and regulations to add to or take from such list of agricultural seed, when he finds that any seeds are or are not used for seeding purposes in the United States.

Proviso.
Revision of list permitted.

(B) "Vegetable seeds" shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds.

"Vegetable seeds."

(8) (A) For the purpose of title II, the term "weed seeds" means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of—

"Weed seeds" for purpose of title II.
Post, p. 1279.

(i) The State into which the seed is offered for transportation, or transported; or

(ii) Alaska, Hawaii, Puerto Rico, or District of Columbia into which transported, or District of Columbia in which sold.

(B) For the purpose of title III, the term "weed seeds" means seeds or bulblets of plants which are found by the Secretary of Agriculture to be detrimental to the agricultural interests of the United States, or any part thereof.

"Weed seeds" for purpose of title III.
Post, p. 1282.

(9) (A) For the purpose of title II, the term "noxious-weed seeds" means the seeds or bulblets of plants recognized as noxious—

"Noxious-weed seeds" for purpose of title II.

(i) by the law or rules and regulations of the State into which the seed is offered for transportation, or transported;

(ii) by the law or rules and regulations of Alaska, Hawaii, Puerto Rico, or the District of Columbia, into which transported, or District of Columbia in which sold; or

(iii) by the rules and regulations of the Secretary of Agriculture under this Act, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof.

(B) For the purpose of title III, the term "noxious-weed seeds" means the seeds of *Lepidium draba* L., *Lepidium repens* (Schrenk) Boiss., *Hymenophysa pubescens* C. A., Mey., white top; *Cirsium arvense* (L.) Scop., Canada thistle; *Cuscuta* spp., dodder; *Agropyron repens* (L.) Beauv., quackgrass; *Sorghum halepense* (L.) Pers., Johnson grass; *Convolvulus arvensis* L., bindweed; *Centaurea picris* Pall.,

"Noxious-weed seeds" for purpose of title III.

Russian knapweed; *Sonchus arvensis* L., perennial sowthistle; *Euphorbia esula* L., leafy spurge; and seeds or bulblets of any other kinds which after investigation the Secretary of Agriculture finds should be included.

“Origin.”

(10) The term “origin” means the State, Alaska, District of Columbia, Hawaii, Puerto Rico, or possession of the United States, or the foreign country, or designated portion thereof, where the seed was grown.

“Kind.”

(11) The term “kind” means one or more related species or subspecies which singly or collectively is known by one common name, for example, wheat, oat, vetch, sweetclover, cabbage, cauliflower, and so forth.

“Variety.”

(12) The term “variety” means a subdivision of a kind which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

“Type.”

(13) The term “type” means either (A) a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions, or (B) when used with a variety name means seed of the variety named which may be mixed with seed of other varieties of the same kind and of similar character, the manner of and the circumstances connected with the use of the designation to be governed by rules and regulations prescribed under section 402 of this Act.

Post, p. 1285.

“Germination.”

(14) The term “germination” means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed, or obviously abnormal sprouts), determined by methods prescribed under section 403 of this Act.

Post, p. 1285.

“Hard seeds.”

(15) The term “hard seeds” means the percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned, determined by methods prescribed under section 403 of this Act.

“Inert matter.”

(16) The term “inert matter” means all matter not seeds, and includes among others broken seeds, sterile florets, chaff, fungus bodies, and stones, determined by methods prescribed under section 403 of this Act.

“Pure live seed.”

(17) The term “pure live seed” for the purpose of title III means that portion of any lot of seed subject to this Act that consists of live agricultural or vegetable seed determined by methods prescribed under section 403 of this Act.

“Label.”

(18) The term “label” means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

“Labeling.”

(19) The term “labeling” includes all labels, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

“Advertisement.”

(20) The term “advertisement” means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

Subject to prescribed tolerances.

(21) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this Act—

“False labeling.”

(A) the term “false labeling” means any labeling which is false or misleading in any particular;

“False advertisement.”

(B) the term “false advertisement” means any advertisement which is false or misleading in any particular.

(22) The term "screenings" shall include chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contain less than 25 per centum of live agricultural or vegetable seeds.

"Screenings."

(23) The term "in bulk" refers to seed when loose either in vehicles of transportation or in storage, and not to seed in bags or other containers.

"In bulk."

TITLE II—INTERSTATE COMMERCE

PROHIBITIONS RELATING TO INTERSTATE COMMERCE IN CERTAIN SEEDS

SEC. 201. It shall be unlawful for any person to transport or deliver for transportation in interstate commerce—

Prohibitions relating to interstate commerce in certain seeds.

(a) Any agricultural seeds or any mixture of agricultural seeds for seeding purposes, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act:

Labeling requirements.

(1) The name of (A) kind, or (B) kind and variety, or (C) kind and type, for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided*, That such components are expressed in accordance with the category designated under (A), (B), or (C);

Post, p. 1285.

Name of kind, etc.

(2) Lot number or other identification;

Proviso.
Components to be expressed according to category designated.
Lot number, etc.
Origin.

(3) Origin, stated in accordance with paragraph (a) (1) of this section, of each agricultural seed present which has been designated by the Secretary of Agriculture as one on which a knowledge of the origin is important from the standpoint of crop production, if the origin is known, and if each such seed is present in excess of 5 per centum. If the origin of such agricultural seed or seeds is unknown, that fact shall be stated;

(4) Percentage by weight of weed seeds, including noxious-weed seeds;

Percentage by weight of weed seeds.

(5) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 101 (a) (9) (A) (iii) he shall determine that weeds other than those designated by State requirements are noxious;

Kinds of noxious-weed seeds and rate of occurrence of each.

(6) Percentage by weight of agricultural seeds other than those included under paragraph (a) (1) of this section;

Ante, p. 1277.

Percentage by weight of certain agricultural seeds.

(7) Percentage by weight of inert matter;

Inert matter.

(8) For each agricultural seed, in excess of 5 per centum of the whole, stated in accordance with paragraph (a) (1) of this section, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, (C) the calendar month and year the test was completed to determine such percentages;

Germination, etc.

(9) Name and address of (A) the person who transports, or delivers for transportation, said seed in interstate commerce, or (B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce;

Names, etc., of shipper and consignee.

Post, p. 1285.

Vegetable seeds, for seeding, in containers.

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Name of kind and variety.

Seeds which germinate less than standard.

Post, p. 1286.

Name of shipper, consignee, etc.

Determination of percentage of germination, test period.

Proviso. Periods of germination; regulations.

False labeling or advertisement, etc.

Violations of staining provisions.

Screenings.

(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act;

(1) Name of kind and variety of seed;

(2) For seeds which germinate less than the standard last established by the Secretary of Agriculture, as provided under section 403 (c) of this Act—

(i) percentage of germination, exclusive of hard seed;

(ii) percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages;

(iv) the words "Below Standard"; and

(3) Name and address of—

(A) The person who transports, or delivers for transportation, said seed in interstate commerce; or

(B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(c) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by this section shall have been completed within a five-month period, exclusive of the calendar month in which the test was completed, immediately prior to transportation or delivery for transportation in interstate commerce: *Provided, however,* That the Secretary of Agriculture may by rules and regulations designate: (a) a shorter period for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will not maintain, during the aforesaid five-month period, a germination within the established limits of tolerance; or (b) a longer period not to exceed nine months, exclusive of the calendar month in which the test was completed, for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will maintain during such longer period a germination within the established limits of tolerance.

(d) Any agricultural seeds or vegetable seeds having a false labeling, or pertaining to which there has been a false advertisement, or to sell or offer for sale such seed for interstate shipment by himself or others.

(e) Seed which is required to be stained under the provisions of this Act and the regulations made and promulgated thereunder, and is not so stained.

(f) Seed which has been stained to resemble seed stained in accordance with the provisions of this Act and the regulations made and promulgated thereunder.

(g) Seed which is a mixture of seeds which are required to be stained or which are stained with different colors under the provisions of this Act and of the regulations made and promulgated thereunder, or which is a mixture of any seed required to be stained under the provisions of this Act and of the regulations made and promulgated thereunder, with seed of the same kind produced in the United States.

(h) Screenings of any seed subject to this Act, unless they are not intended for seeding purposes; and it is stated on the label, if in containers, or on the invoice if in bulk, that they are intended for cleaning, processing, or manufacturing purposes, and not for seeding purposes.

RECORDS

SEC. 202. All persons transporting, or delivering for transportation, in interstate commerce agricultural seeds shall keep for a period of three years a complete record of origin, germination and purity of each lot of agricultural seed offered, and the Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this Act.

Records.

EXEMPTIONS

SEC. 203. (a) The provisions of sections 201 and 202 shall not apply to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier: *Provided*, That such carrier is not engaged in processing or merchandising seed subject to the provisions of this Act; and such provisions shall not apply to seeds produced by any farmer on his own premises and sold by him directly to the consumer, provided such farmer is not engaged in the business of selling seeds not produced by him: *And provided further*, That such seeds produced or sold by him when transported or offered for transportation to any State, Territory, or District, shall not be exempted from the provisions of sections 201 and 202 unless said seeds shall be in compliance with the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police power, to the same extent and in the same manner as though such seed had been produced, sold, offered or exposed for sale in such State, Territory, or District, and shall not be exempted therefrom by reason of being introduced therein in original packages or otherwise: *And provided further*, That such seeds produced or sold by him are in compliance with the seed laws of the State into which the seed is transported.

Exemptions.
Carriers in ordinary business.*Provisos.*
Carrier not in business of processing or merchandising seed.

Farmers selling directly to consumer.

Exemption conditional on compliance with certain provisions.

State seed laws, compliance.

Further exemptions.
Seed or grain not for seeding.

Seed for seeding.

If in bulk.

If consigned to cleaning or processing establishment.

Provisos.
Fact to be so stated.

Labels and records to establish facts.

Post, p. 1285.

Waiver of restrictions on labeling for germination, etc.

(b) The provisions of section 201 (a) or (b) shall not apply—

(1) to seed or grain not intended for seeding purposes when transported or offered for transportation in ordinary channels of commerce usual for such seed or grain intended for manufacture or for feeding; or

(2) to seed intended for seeding purposes when transported or offered for transportation in interstate commerce—

(A) if in bulk, in which case, however, the invoice pertaining to such seed shall bear the various statements required for the respective seeds under section 201 (a) and (b); or

(B) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided*, That this fact is so stated in the invoice, if in bulk, or on attached labels, if in containers: *Provided further*, That any such seed later to be labeled as to origin and/or variety, and for which consecutive records are necessary to establish these facts, shall be labeled as to these items in accordance with rules and regulations prescribed under section 402 of this Act.

(c) When the Secretary of Agriculture finds that, because of the time interval between seed harvesting and sowing, or because of an emergency beyond human control, the information required by this Act as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of section 201 (a) and (b) as to the required labeling for germination and

hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

Full labeling requirements unnecessary under designated conditions.

(d) The provisions of section 201 (a) and (b) relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or variety or type of seeds shall not be deemed violated if there be other seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce, provided that the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken all proper precautions to insure the identity to be that stated.

DISCLAIMERS AND NONWARRANTIES

Disclaimers and nonwarranties.

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution, or in any proceeding for confiscation of seeds, brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

FALSE ADVERTISING

False advertising unlawful.

SEC. 205. It shall be unlawful for any person to disseminate, or cause to be disseminated, any false advertisement concerning seed, by the United States mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: *Provided, however,* That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and post-office address of the person, or advertising agency, residing in the United States, who caused, directly or indirectly, the dissemination of such advertisement.

Proviso.
Exemptions.

TITLE III—FOREIGN COMMERCE

PROHIBITIONS AND PROCEDURES RELATING TO IMPORTATIONS

Prohibitions relating to importations.

SEC. 301. (a) The importation into the United States is prohibited of—

(1) any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes, or is required to be stained and is not so stained, under the terms of this title, or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to title III of this Act (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance

with the provisions of this title and the regulations made and promulgated thereunder.

SEC. 302. (a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 402 of this Act, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this title and do not comply with the provisions of this title, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. Seed or screenings refused admission and not exported by the consignee within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 402 of this Act: *Provided*, That the Secretary of the Treasury may deliver to the consignee such seed or screenings pending examination and decision in the matter or for staining, if it be seed which is required to be stained, or for cleaning, on the execution of a redelivery bond for such amount as may be necessary under joint rules and regulations prescribed under section 402 of this Act, and on refusal to return such seed or screenings for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding such seed or screenings from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond as liquidated damages: *And provided further*, That all charges for storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importation made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 402 of this Act.

(c) The provisions of this title shall not apply—

- (1) when seed is shipped in bond through the United States, or
- (2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the Act: *Provided*, That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 402 of this Act.

ADULTERATED SEED

SEC. 303. Seed subject to the provisions of section 301 is adulterated if any kind of such seed contains more than 5 per centum by weight of seed or seeds of another kind or kinds of similar appearance: *Provided*, That the mixture of the seed of white and alsike clover, or red clover and alsike clover, shall not be deemed to be adulterated, and that other seed mixtures of similar kinds of seeds of similar appearance shall not be deemed to be adulterated when the Secretary of Agriculture finds and prescribes by order that the importation of such seed mixtures for planting is not detrimental to the user of such seeds.

Procedures relating to importations.

Post, p. 1285.

Proviso.
Release under redelivery bond in certain cases.

Penalty provision.

Charges a lien against future importation.

Refuse to be destroyed.

Exemptions from provisions of title.
Shipments in bond.
Seed used for other than seeding purposes.

Proviso.
Accompanying declaration.

Post, p. 1285.

Adulterated seed.

Proviso.
Approved mixtures.

SEED UNFIT FOR SEEDING PURPOSES

Seed unfit for seeding purposes.

SEC. 304. Seed subject to the provisions of section 301 is unfit for seeding purposes—

(a) If any such seed contains noxious-weed seed at a rate in excess of—

(1) one noxious-weed seed in each ten grams of the seed of timothy, orchard grass, bromegrass, crested wheatgrass, slender wheatgrass, ryegrass, sweetclover, alfalfa, millet, rape, flax, clovers, and species of *Agrostis*, *Festuca*, or *Poa*, or any kind of seed of a size and weight similar to or less than those named;

(2) one noxious-weed seed in each twenty-five grams of the seed of sorghum, Sudan grass, and buckwheat, or any kind of seed of a size and weight greater than the seeds referred to in

(a) (1), but less than seeds referred to in (a) (3) of this section;

(3) one noxious-weed seed in each one hundred grams of the seed of wheat, oats, rye, barley, vetches, and corn, or any seed of a size and weight similar to or greater than such seed.

(b) If any such seed contains more than 2 per centum by weight of weed seeds; or

(c) If any such seed contains less than 75 per centum of pure, live seed, or if any component of such seed present to the extent of 10 per centum or more contains less than 75 per centum of live seed: *Provided*, That when the Secretary of Agriculture shall find that any such seed or any kind of seed present to the extent of 10 per centum or more cannot be produced to contain 75 per centum of pure, live seed, he may set up such standard from time to time for pure, live seed as he finds can be produced.

Proviso.
Seed standards.

CERTAIN SEEDS REQUIRED TO BE STAINED

Certain seeds required to be stained.

SEC. 305. (a) Any seed containing 10 per centum or more of the seeds of alfalfa and/or red clover, subject to the provisions of section 301, shall be stained in such manner and to such extent as the Secretary of Agriculture by regulation may prescribe and, when practicable, the color produced by such stain shall indicate the country or region of origin.

(b) Whenever the Secretary of Agriculture, after public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination. On and after the expiration of ninety days after the date of such publication, and until such determination is revoked, 10 per centum or more of the seeds in each container of such alfalfa or red clover seed, or any seed containing 10 per centum or more of such alfalfa or red clover seed, shall be stained a red color, in accordance with such regulations as the Secretary of Agriculture may prescribe.

(c) Whenever the origin of the seed of alfalfa or of red clover present in excess of 10 per centum in any seed subject to section 301 of this Act is unestablished, 10 per centum of the seed in each container shall be stained a red color.

(d) Whenever the seeds of alfalfa or of red clover of different origins are present in excess of 10 per centum in any seed subject to section 301 of this Act, and different colors are required by reason of such different origins, 10 per centum of the seed in each container shall be stained red.

(e) Whenever any seed required to be stained under the provisions of this Act is commingled with seed of the same kind grown in the United States, the seed in each container thereof shall be stained 10 per centum red.

CERTAIN ACTS PROHIBITED

SEC. 306. It shall be unlawful for any person—

Unlawful acts.

(a) To sell or offer for sale—

(1) any seed for seeding purposes if imported under this title for other than seeding purposes;

(2) any screenings of any seeds for seeding purposes if imported under this title for other than seeding purposes;

(3) any seed which is prohibited entry under the provisions of this Act;

(4) any seed which has been stained to resemble seed stained in accordance with the provisions of this Act and the rules and regulations made and promulgated thereunder;

(5) any seed stained under the provisions of this Act and the rules and regulations made and promulgated thereunder, when mixed with seed of the same kind produced in the United States;

(6) any seed stained with different colors;

(7) any seed stained under the provisions of this Act, the labeling of which states that such seed is adapted.

(b) To change the proportion of seeds stained under the provisions of this Act and the rules and regulations made and promulgated thereunder, or to alter, modify, conceal, or remove in any manner or by any means the color of such stained seeds.

TITLE IV—GENERAL PROVISIONS

DELEGATION OF DUTIES

SEC. 401. Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this Act may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

Delegation of duties.

RULES AND REGULATIONS

SEC. 402. (a) The Secretary of Agriculture shall make such rules and regulations as he may deem necessary for the effective enforcement of this Act, except as otherwise provided in this section.

Rules and regulations.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall make, jointly or severally, such rules and regulations as they may deem necessary for the effective enforcement of title III of this Act.

Ant., p. 1282.

(c) Prior to the promulgation of any rule or regulation under this Act, due notice shall be given by publication in the Federal Register of intention to promulgate and the time and place of a public hearing to be held with reference thereto, and no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than thirty days after publication in the Federal Register, and may be amended or revoked in the manner provided for its promulgation.

Advance notice in Federal Register.

STANDARDS, TESTS, AND TOLERANCES

SEC. 403. (a) The samplings, analyses, tests, or examinations of seeds made in connection with the administration of this Act shall be made by methods set forth by rules and regulations prescribed under section 402 of this Act.

Standards, tests, and tolerances.

(b) The Secretary of Agriculture is authorized and directed to make and promulgate by rules and regulations, reasonable tolerances as to the percentages and rates of occurrence required to be stated or required by this Act.

Ante, p. 1280.

(c) For the purpose of section 201 (b) of this Act, the Secretary of Agriculture is authorized and directed to investigate, determine, establish, and promulgate from time to time such reasonable standards of germination for each kind of vegetable seed as will in his judgment best protect crop production.

PROHIBITION AGAINST ALTERATIONS

Prohibition against alterations.

SEC. 404. No person shall detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute seed in a manner that may defeat the purpose of this Act.

SEIZURE

Seizure of seed sold, delivered, or transported, etc., in violation of Act.

SEC. 405. (a) Any seed sold, delivered for transportation in interstate commerce, or transported in interstate or foreign commerce in violation of any of the provisions of this Act shall, at the time of such violation or at any time thereafter, be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which the seed is found.

Disposition of condemned seed.

(b) If seed is condemned by a decree of the court as being in violation of the provisions of this Act, it may be disposed of by the court by—

(1) sale; or

(2) delivery to the owner thereof after he has appeared as claimant and paid the court costs and fees and storage and other proper expenses and executed and delivered a bond with good and sufficient sureties that such seed will not be sold or disposed of in any jurisdiction contrary to the provisions of this Act and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction; or

(3) destruction.

Disposition of proceeds.

(c) If such seed is disposed of by sale, the proceeds of the sale, less the court costs and fees and storage and other proper expenses, shall be paid into the Treasury as miscellaneous receipts, but such seed shall not be sold or disposed of in any jurisdiction contrary to the provisions of this Act and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction.

Proceedings.

(d) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case; and such proceedings shall be at the suit of and in the name of the United States.

PENALTIES

Penalties.

SEC. 406. Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

Enforcement to include corporate as well as individual liability.

SEC. 407. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, partnership, corporation, company, society, or association, shall in every case be also deemed to be the act, omission, or failure of such person, partnership, corporation, company, society, or association, as well as that of the person employed.

Opportunity to present views before violation reported.

SEC. 408. Before any violation of this Act is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding

is contemplated shall be given appropriate notice and an opportunity to prevent his views, either orally or in writing, with regard to such contemplated proceeding.

CEASE AND DESIST PROCEEDINGS

SEC. 409. (a) Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this Act or the rules and regulations made and promulgated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint; but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

Cease and desist proceedings.
Service of complaint; hearing.

(b) If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the Act or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

Cease and desist order to be served if violation found.

(c) Until a transcript of the record in such hearing has been filed in a circuit court of appeals, as provided in section 410, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part.

Amendment, etc., of report or order.

(d) Complaints, orders, and other processes of the Secretary of Agriculture under this section may be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

Service of complaints, orders, and other processes.

SEC. 410. An order made under section 409 shall be final and conclusive unless within thirty days after the service the person appeals to the circuit court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

Order final unless appeal taken within thirty days.

Bond.

Court procedure.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

Amendment of petition by petitioner.

Temporary injunctions.

At any time after such transcript is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

Evidence.

The evidence so taken or admitted, duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way.

Powers of court.

The court may affirm, modify, or set aside the order of the Secretary.

Reopening of hearing.

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

Effect of court orders.

If the circuit court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the person and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

Failure to obey order; enforcement.

SEC. 411. If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the circuit court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall certify and file with its application a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, the report, and the order. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 410 for applications to set aside or modify orders.

The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.

SEPARABILITY OF PROCEEDINGS

Separability of proceedings.

SEC. 412. The institution of any one of the proceedings provided for in sections 405, 409, 410, and 411, or criminal prosecution under section 406 shall not bar institution of any of the others. However, nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution or institution of libel proceedings, cease-and-desist proceedings or proceedings for the enforce-

Minor violations.

ment of a cease-and-desist order, for minor violations of this Act whenever he believes that the public interest will be adequately served by suitable written notice or warning.

SEC. 413. (a) In carrying on the work herein authorized, the Secretary of Agriculture, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, take depositions, and require the production of books, records, accounts, memoranda, and papers, and have access to office and warehouse premises. Upon refusal by any person to appear, testify, or produce pertinent books, records, accounts, memoranda, and papers in response to a subpoena, or to permit access to premises, the proper United States district court shall have power to compel obedience thereto.

(b) Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

Powers of Secretary of Agriculture.

Refusal to appear, testify, etc.

Witness fees and mileage.

PUBLICATION

SEC. 414. After judgment by the court, or the issuance of a cease and desist order, in any case arising under this Act, notice thereof shall be given by publication in such manner as may be prescribed in the rules and regulations made and promulgated under this Act.

Publication.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 415. (a) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this Act.

(b) Funds appropriated for carrying into effect the purpose of this Act shall be available for allotment by the Secretary of Agriculture to the bureaus and offices of the Department of Agriculture and for transfer to other departments and agencies of the Government which the Secretary of Agriculture may call upon to assist or cooperate in carrying out such purposes or for services rendered or to be rendered in connection therewith.

Authorization for appropriations.

Availability of funds for allotment.

AUTHORIZATION FOR EXPENDITURES

SEC. 416. The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this Act and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress.

Authorization for expenditures.

COOPERATION

SEC. 417. The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this Act.

Cooperation with Federal agencies, States, etc.

SEPARABILITY OF PROVISIONS

Separability of provisions.

SEC. 418. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

REPEALS

Repeals.

37 Stat. 506; 39 Stat. 453; 44 Stat. 325.
7 U. S. C. §§ 111-116.

Proviso.
Designated notices to remain in effect.

SEC. 419. The Importation of Adulterated Seeds Act, approved August 24, 1912, as amended August 11, 1916, and as amended April 26, 1926 (7 U. S. C., 111-116, inclusive), is hereby repealed on the one hundred and eightieth day after the passage of this Act: *Provided, however*, That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of the Importation of Adulterated Seeds Act, approved August 24, 1912, as amended (7 U. S. C., 111-116, inclusive), and now in effect, shall remain with the same full force and effect as if promulgated under this Act.

EFFECTIVE DATE

Effective date.

SEC. 420. This Act shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after its enactment; as to vegetable seeds in interstate commerce, one year after its enactment; and as to sections 401, 402, and 403, on the date of its enactment.

Approved, August 9, 1939.

[CHAPTER 616]

AN ACT

August 9, 1939
[H. R. 5835]
[Public, No. 355]

To authorize the President to render closer and more effective the relationship between the American republics.

American republics.
President authorized to utilize Government agencies in effecting purposes of designated treaties, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to render closer and more effective the relationship between the American republics the President of the United States is hereby authorized, subject to such appropriations as are made available for the purpose, to utilize the services of the departments, agencies, and independent establishments of the Government in carrying out the reciprocal undertakings and cooperative purposes enunciated in the treaties, resolutions, declarations, and recommendations signed by all of the twenty-one American republics at the Inter-American Conference for the Maintenance of Peace held at Buenos Aires, Argentina, in 1936, and at the Eighth International Conference of American States held at Lima, Peru, in 1938.

Advisory committees.

SEC. 2. The President is authorized to create such advisory committees as in his judgment may be of assistance in carrying out the undertakings of this Government under the treaties, resolutions, declarations, and recommendations referred to, but no committee or member thereof shall be allowed any salary or other compensation for services: *Provided, however*, That they may, within the limits of appropriations made available therefor by the Congress, which appropriations are hereby authorized, be paid their actual transportation expenses and not to exceed \$10 per diem in lieu of subsistence and other expenses while away from their homes in attendance upon meetings within the United States under instructions from the Secretary of State.

No salary, etc.

Proviso.
Allowances.

Approved, August 9, 1939.